

PREVAILED

Roll Call No. \_\_\_\_\_

FAILED

Ayes \_\_\_\_\_

WITHDRAWN

Noes \_\_\_\_\_

RULED OUT OF ORDER

## HOUSE MOTION \_\_\_\_\_

MR. SPEAKER:

I move that House Bill 1158 be amended to read as follows:

- 1 Page 2, between lines 41 and 42, begin a new paragraph and insert:
- 2 "SECTION 3. IC 33-35-3-9 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) This section
- 4 applies after June 30, 2005.
- 5 (b) A clerk of a city court in a county having a population of more
- 6 than four hundred thousand (400,000) but less than seven hundred
- 7 thousand (700,000) shall deposit all court costs collected by the clerk
- 8 in accordance with IC 33-37-7-12. The fees received by the controller
- 9 from the clerk shall be paid into the city treasury at the time of the
- 10 semiannual settlement for city revenue.
- 11 (c) If the party instituting an action or a proceeding recovers
- 12 judgment, the judgment must also include as costs an amount equal to
- 13 the small claims costs fee, **small claims garnishee service fee**, and the
- 14 small claims service fee prescribed under IC 33-37-4-5 or IC 33-37-4-6.
- 15 (d) Money paid in advance for costs remaining unexpended at the
- 16 time a civil action or proceeding is terminated, whether by reason of
- 17 dismissal or otherwise, must be returned to the party or parties making
- 18 payment. However, this section does not apply to civil actions or
- 19 proceedings instituted by or on behalf of the state or any of the state's
- 20 political subdivisions."
- 21 Page 3, line 5, strike "and".
- 22 Page 3, line 7, delete "." and insert "; and
- 23 **(C) if the party has named more than three (3) garnishees**
- 24 **or garnishee defendants, a small claims garnishee service**
- 25 **fee of ten dollars (\$10) for each garnishee or garnishee**

1                   **defendant in excess of three (3)."**

2           Page 3, between lines 10 and 11, begin a new line block indented  
3 and insert:

4           **"(3) From any party adding a garnishee or garnishee**  
5           **defendant, a small claims garnishee service fee of ten dollars**  
6           **(\$10) for each garnishee or garnishee defendant added to the**  
7           **action. However, a clerk may not collect a small claims**  
8           **garnishee service fee for the first three (3) garnishees named**  
9           **in the action."**

10          Page 3, line 11, after "fee" insert ", ".

11          Page 3, line 11, strike "or".

12          Page 3, line 12, after "fee" insert ", **or small claims garnishee**  
13 **service fee"**.

14          Page 3, line 13, after "fee" insert ", ".

15          Page 3, line 14, strike "and".

16          Page 3, line 15, after "fee" insert ", **and small claims garnishee**  
17 **service fee"**.

18          Page 4, between lines 13 and 14, begin a new line block indented  
19 and insert:

20           **"(3) From a party that has named more than three (3)**  
21           **garnishees or garnishee defendants, a garnishee service fee of**  
22           **ten dollars (\$10) for each garnishee or garnishee defendant in**  
23           **excess of three (3).**

24           **(4) From a party adding a garnishee or garnishee defendant,**  
25           **a garnishee service fee of ten dollars (\$10) for each garnishee**  
26           **or garnishee defendant added to the action. However, a clerk**  
27           **may not collect a garnishee service fee for the first three (3)**  
28           **garnishees or garnishee defendants named in the action."**

29          Page 4, between lines 15 and 16, begin a new paragraph and insert:

30           "SECTION 7. IC 33-37-4-4, AS AMENDED BY P.L.176-2005,  
31 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
32 JULY 1, 2006]: Sec. 4. (a) The clerk shall collect a civil costs fee of  
33 one hundred dollars (\$100) from a party filing a civil action. This  
34 subsection does not apply to the following civil actions:

35           (1) Proceedings to enforce a statute defining an infraction under  
36 IC 34-28-5 (or IC 34-4-32 before its repeal).

37           (2) Proceedings to enforce an ordinance under IC 34-28-5 (or  
38 IC 34-4-32 before its repeal).

39           (3) Proceedings in juvenile court under IC 31-34 or IC 31-37.

40           (4) Proceedings in paternity under IC 31-14.

41           (5) Proceedings in small claims court under IC 33-34.

42           (6) Proceedings in actions described in section 7 of this chapter.

43           (b) In addition to the civil costs fee collected under this section, the  
44 clerk shall collect the following fees, if they are required under  
45 IC 33-37-5:

46           (1) A document fee (IC 33-37-5-1, IC 33-37-5-3, or  
47 IC 33-37-5-4).

- (2) A support and maintenance fee (IC 33-37-5-6).
- (3) A document storage fee (IC 33-37-5-20).
- (4) An automated record keeping fee (IC 33-37-5-21).
- (5) A public defense administration fee (IC 33-37-5-21.2).
- (6) A judicial insurance adjustment fee (IC 33-37-5-25).
- (7) A judicial salaries fee (IC 33-37-5-26).
- (8) A court administration fee (IC 33-37-5-27).
- (9) A service fee (~~IC 33-37-5-28~~) **(IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2)).**
- (10) A garnishee service fee (IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4)).**

SECTION 5. IC 33-37-7-2, AS AMENDED BY P.L.176-2005, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. (a) The clerk of a circuit court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-37-4-1(a) (criminal costs fees).
- (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-37-4-3(a) (juvenile costs fees).
- (4) IC 33-37-4-4(a) (civil costs fees).
- (5) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- (6) IC 33-37-4-7(a) (probate costs fees).
- (7) IC 33-37-5-17 (deferred prosecution fees).

(b) The clerk of a circuit court shall distribute semiannually to the auditor of state for deposit in the state user fee fund established in IC 33-37-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-37-4-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-37-4-1(b)(6), IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-37-4-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-37-4-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-37-5-18.
- (7) One hundred percent (100%) of the automated record keeping fee (IC 33-37-5-21).

(c) The clerk of a circuit court shall distribute monthly to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under

1 IC 33-37-4-1(b)(5).

2 (2) Seventy-five percent (75%) of the alcohol and drug  
3 countermeasures fees collected under IC 33-37-4-1(b)(6),  
4 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).

5 The county auditor shall deposit fees distributed by a clerk under this  
6 subsection into the county drug free community fund established under  
7 IC 5-2-11.

8 (d) The clerk of a circuit court shall distribute monthly to the county  
9 auditor fifty percent (50%) of the child abuse prevention fees collected  
10 under IC 33-37-4-1(b)(7). The county auditor shall deposit fees  
11 distributed by a clerk under this subsection into the county child  
12 advocacy fund established under IC 12-17-17.

13 (e) The clerk of a circuit court shall distribute monthly to the county  
14 auditor one hundred percent (100%) of the late payment fees collected  
15 under IC 33-37-5-22. The county auditor shall deposit fees distributed  
16 by a clerk under this subsection as follows:

17 (1) If directed to do so by an ordinance adopted by the county  
18 fiscal body, the county auditor shall deposit forty percent (40%)  
19 of the fees in the clerk's record perpetuation fund established  
20 under IC 33-37-5-2 and sixty percent (60%) of the fees in the  
21 county general fund.

22 (2) If the county fiscal body has not adopted an ordinance  
23 described in subdivision (1), the county auditor shall deposit all  
24 the fees in the county general fund.

25 (f) The clerk of the circuit court shall distribute semiannually to the  
26 auditor of state for deposit in the sexual assault victims assistance fund  
27 established by IC 16-19-13-6 one hundred percent (100%) of the sexual  
28 assault victims assistance fees collected under IC 33-37-5-23.

29 (g) The clerk of a circuit court shall distribute monthly to the county  
30 auditor the following:

31 (1) One hundred percent (100%) of the support and maintenance  
32 fees for cases designated as non-Title IV-D child support cases in  
33 the Indiana support enforcement tracking system (ISETS)  
34 collected under IC 33-37-5-6.

35 (2) The percentage share of the support and maintenance fees for  
36 cases designated as IV-D child support cases in ISETS collected  
37 under IC 33-37-5-6 that is reimbursable to the county at the  
38 federal financial participation rate.

39 The county clerk shall distribute monthly to the office of the secretary  
40 of family and social services the percentage share of the support and  
41 maintenance fees for cases designated as Title IV-D child support cases  
42 in ISETS collected under IC 33-37-5-6 that is not reimbursable to the  
43 county at the applicable federal financial participation rate.

44 (h) The clerk of a circuit court shall distribute monthly to the county  
45 auditor **the following:**

46 (1) One hundred percent (100%) of the small claims service fee  
47 under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2) for deposit in

the county general fund.

**(2) One hundred percent (100%) of the small claims garnishee service fee under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3) for deposit in the county general fund.**

(i) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The judicial salaries fees collected under IC 33-37-5-26.

(3) The DNA sample processing fees collected under IC 33-37-5-26.2.

(4) The court administration fees collected under IC 33-37-5-27.

(j) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(k) The proceeds of the service fee collected under ~~IC 33-37-5-28~~ **IC 33-37-5-28(b)(1) or IC 33-37-5-28(b)(2)** shall be distributed as follows:

(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.

(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.

**(l) The proceeds of the garnishee service fee collected under IC 33-37-5-28(b)(3) or IC 33-37-5-28(b)(4) shall be distributed as follows:**

**(1) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.**

**(2) The clerk shall distribute one hundred percent (100%) of the garnishee service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund.**

SECTION 9. IC 33-37-7-8, AS AMENDED BY P.L.176-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) The clerk of a city or town court shall distribute semiannually to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

(1) IC 33-37-4-1(a) (criminal costs fees).

(2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).

(3) IC 33-37-4-4(a) (civil costs fees).

(4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).

- 1 (5) IC 33-37-5-17 (deferred prosecution fees).
- 2 (b) The city or town fiscal officer shall distribute monthly to the
- 3 county auditor as the county share twenty percent (20%) of the amount
- 4 of fees collected under the following:
- 5 (1) IC 33-37-4-1(a) (criminal costs fees).
- 6 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 7 (3) IC 33-37-4-4(a) (civil costs fees).
- 8 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 9 (5) IC 33-37-5-17 (deferred prosecution fees).
- 10 (c) The city or town fiscal officer shall retain twenty-five percent
- 11 (25%) as the city or town share of the fees collected under the
- 12 following:
- 13 (1) IC 33-37-4-1(a) (criminal costs fees).
- 14 (2) IC 33-37-4-2(a) (infraction or ordinance violation costs fees).
- 15 (3) IC 33-37-4-4(a) (civil costs fees).
- 16 (4) IC 33-37-4-6(a)(1)(A) (small claims costs fees).
- 17 (5) IC 33-37-5-17 (deferred prosecution fees).
- 18 (d) The clerk of a city or town court shall distribute semiannually to
- 19 the auditor of state for deposit in the state user fee fund established in
- 20 IC 33-37-9 the following:
- 21 (1) Twenty-five percent (25%) of the drug abuse, prosecution,
- 22 interdiction, and corrections fees collected under
- 23 IC 33-37-4-1(b)(5).
- 24 (2) Twenty-five percent (25%) of the alcohol and drug
- 25 countermeasures fees collected under IC 33-37-4-1(b)(6),
- 26 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 27 (3) One hundred percent (100%) of the highway work zone fees
- 28 collected under IC 33-37-4-1(b)(9) and IC 33-37-4-2(b)(5).
- 29 (4) One hundred percent (100%) of the safe schools fee collected
- 30 under IC 33-37-5-18.
- 31 (5) One hundred percent (100%) of the automated record keeping
- 32 fee (IC 33-37-5-21).
- 33 (e) The clerk of a city or town court shall distribute monthly to the
- 34 county auditor the following:
- 35 (1) Seventy-five percent (75%) of the drug abuse, prosecution,
- 36 interdiction, and corrections fees collected under
- 37 IC 33-37-4-1(b)(5).
- 38 (2) Seventy-five percent (75%) of the alcohol and drug
- 39 countermeasures fees collected under IC 33-37-4-1(b)(6),
- 40 IC 33-37-4-2(b)(4), and IC 33-37-4-3(b)(5).
- 41 The county auditor shall deposit fees distributed by a clerk under this
- 42 subsection into the county drug free community fund established under
- 43 IC 5-2-11.
- 44 (f) The clerk of a city or town court shall distribute monthly to the
- 45 city or town fiscal officer (as defined in IC 36-1-2-7) one hundred
- 46 percent (100%) of the following:
- 47 (1) The late payment fees collected under IC 33-37-5-22.

(2) The small claims service fee collected under IC 33-37-4-6(a)(1)(B) or IC 33-37-4-6(a)(2).

**(3) The small claims garnishee service fee collected under IC 33-37-4-6(a)(1)(C) or IC 33-37-4-6(a)(3).**

The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

(g) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the following:

(1) The public defense administration fee collected under IC 33-37-5-21.2.

(2) The DNA sample processing fees collected under IC 33-37-5-26.2.

(3) The court administration fees collected under IC 33-37-5-27.

(h) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the judicial branch insurance adjustment account established by IC 33-38-5-8.2 one hundred percent (100%) of the judicial insurance adjustment fee collected under IC 33-37-5-25.

(i) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund seventy-five percent (75%) of the judicial salaries fee collected under IC 33-37-5-26. The city or town fiscal officer shall retain twenty-five percent (25%) of the judicial salaries fee collected under IC 33-37-5-26 as the city or town share."

Renumber all SECTIONS consecutively.

(Reference is to HB 1158 as printed January 24, 2006.)

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Representative Richardson